

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

DEUTSCHE BANK NATIONAL TRUST  
COMPANY AS TRUSTEE FOR THE  
REGISTERED HOLDER OF SOUNDVIEW  
HOME LOAN TRUST 2006-EQ1 ASSET-  
BACKED CERTIFICATES, SERIES 2006-  
EQ1,

CASE NO. 3:11-cv-184-JPG-DGW

PLAINTIFF,

VS.

KEVIN L. PARKER and DENNIS MYRACLE,

DEFENDANTS.

**MEMORANDUM AND ORDER**

This matter is before the Court on the Plaintiff's Motion to Set Aside Judgment and Dismiss the Case (Doc. 29). The Plaintiff seeks to set aside the judgment pursuant to Federal Rule of Civil Procedure 60(b)(5) or (6) on the grounds that applying the judgment prospectively would no longer be equitable in light of the loan modification agreement into which the parties have entered. It further asks the Court to dismiss this case without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i).

In light of the loan modification agreement, it would no longer be equitable to enforce the judgment of foreclosure in this case, and vacating the judgment is warranted. Furthermore, in the absence of a judgment, Rule 41(a)(1)(A)(i) allows the Plaintiff to dismiss this action without a court order since no opposing party has served an answer or a motion for summary judgment.

For the foregoing reasons, the Court:

- **GRANTS** the Motion to Set Aside Judgment and Dismiss the Case (Doc. 29);

- **VACATES** the judgment of foreclosure (Doc. 27);
- **DISMISSES** this case without prejudice; and
- **DIRECTS** the Clerk of Court to close this case.

**Dated: January 29, 2013**

s/J. Phil Gilbert

**J. PHIL GILBERT**  
**DISTRICT JUDGE**